

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_  
ESSEX INSURANCE COMPANY,

Plaintiff,

-against-

CARNIVAL CORPORATION,

Defendant.  
\_\_\_\_\_

07 Civ. 4653 (PKC)

**Amended Civil Case Management  
Plan and Scheduling Order**

This Civil Case Management Plan, submitted in accordance with Rule 26(f), Fed. R. Civ. P., is adopted as the Scheduling Order of this Court in accordance with Rule 16(f), Fed. R. Civ. P.

Pursuant to this Court's Scheduling Order dated October 23, 2007 (the "Original Scheduling Order"), discovery in this action will be conducted according to the plan filed in *Carnival Corp., et al. v. Industrial Risk Insurers, et al.*, Case No. 07-21543, pending in the United States District Court for the Southern District of Florida (the "Florida Action"). The below dates correspond with the dates in the Florida Action.

1. All parties do not **consent** to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. This case is to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by **July 30, 2008**.
4. Initial disclosure pursuant to Rules 26(a)(1), Fed. R. Civ. P., shall be completed not later than **14** days from the date of the **Original Scheduling Order**. **Initial disclosure already has been completed.**
5. All fact discovery shall be completed no later than **March 30, 2009**.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the **Local Rules of the Southern District of Florida**. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided all fact discovery is completed by the date set forth in paragraph 5 above:

- a. Initial requests for production of documents to be served by **N/A (already served in this Action; no deadline in Florida Action).**
  - b. Interrogatories to be served by **N/A (already served in this Action; no deadline in Florida Action).**
  - c. Depositions to be completed by **March 30, 2009.**
  - d. Requests to Admit to be served no later than **February 28, 2009.**
- 7.
- a. All expert discovery shall be completed no later than **March 30, 2009.**
  - b. Defendant shall serve expert disclosures, including 26(a)(2)(B) information, on Plaintiff no later than **December 29, 2008.**
  - c. Plaintiff shall serve expert disclosures, including 26(a)(2)(B) information, on Defendant no later than **January 30, 2009.**
  - d. Plaintiff and Defendant shall serve rebuttal expert disclosures, including 26(a)(2)(B) information, on the opposing party no later than **March 2, 2009.**
8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements. Pursuant to the authority of Rule 16(b)(2), Fed. R. Civ. P., a motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto is made in writing within fourteen (14) days of the close of fact discovery (see paragraph 5 hereof).
9. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.
- 10.
- a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed upon the following: **Mediation already has taken place on January 25, February 7, February 8, and April 11.**
  - b. Counsel for the parties have discussed the use of the following alternate dispute resolution mechanisms for use in this case: (i) a settlement conference before a Magistrate Judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternate dispute resolution mechanism for this case: **(iii) retention of a privately retained mediator.**
  - c. Counsel for the parties recommend that the alternate dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (e.g. within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery): **Mediation already has taken place on January 25, February 7, February 8, and April 11.**

- d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.
11. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine (for which the pre-motion conference requirement is waived) shall be filed by the Final Pretrial Submission Date. If this action is to be tried before a jury, proposed voir dire, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.
12. Counsel for the parties have conferred and their present best estimate of the length of trial is: **10 days**.
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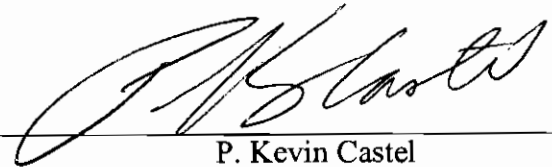
**TO BE COMPLETED BY THE COURT:**

13. [Other directions to the parties]

*April 10, 2009 at  
2 PM*

14. The (next Case Management) (~~Final Pretrial Conference~~) is scheduled for \_\_\_\_\_.

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend shall be made in a written application in accordance with paragraph 1(E) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.



P. Kevin Castel  
United States District Judge

Dated: New York, New York

*6-11-08*